

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Earnest M. Johnson,) C/A No.: 3:11-2594-CMC-SVH
)
Plaintiff,)
)
vs.) ORDER
)
Officer KC Chatara,)
)
Defendant.)
)

Plaintiff, proceeding *pro se* and in forma pauperis, brought this action on September 26, 2011 pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights with regard to his arrest. On October 12, 2011, United States Magistrate Judge Joseph R. McCrorey issued an Report and Recommendation (“R&R) recommending former defendants City of Columbia Police Department and Sgt. Douglas A. Shuler be summarily dismissed from this case. [Entry #7]. The R&R was adopted by the Honorable Cameron McGowan Currie on November 7, 2011. Simultaneous to issuing the R&R, Judge McCrorey issued an order authorizing service of process on defendant Officer KC Chatara. On December 14, 2011, the service documents for defendant Chatara were returned unexecuted with a note in the “Remarks” section indicating that “CPO stated that the defendant has moved to California.” [Entry #13]. There has been no further activity by Plaintiff in this case.

Here, although the United States Marshal Service (“USMS”) was responsible for effecting service to the extent possible, they are only to attempt service at the address provided by Plaintiff. Plaintiff was specifically warned: “Plaintiff must provide, and is

responsible for, information sufficient to identify defendants on the Forms USM-285. The United States Marshal cannot serve an improperly identified defendant, and unserved defendants may be dismissed as parties to this case.” [Entry #6]. Plaintiff provided information insufficient for the USMS to identify and effect proper service.

The court gives notice under Fed. R. Civ. P. 4(m), that it will recommend this action be dismissed without prejudice for non-service and for failure to prosecute if Plaintiff does not show good cause for the failure of service by November 7, 2012. If Plaintiff wishes to continue this case, he is further directed to send to the Clerk of Court by November 7, 2012 updated service documents for the USMS to serve defendant Chatara at his address. The Clerk is instructed to include with this order a blank USM-285 form for Plaintiff’s use.

IT IS SO ORDERED.



October 24, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge